

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 93-0510 CSET

Controlled Substance Excise Tax

For Tax Periods: 1993

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ISSUE

CONTROLLED SUBSTANCE EXCISE TAX: DOUBLE JEOPARDY

Authority: IC 6-7-3-5; United States Constitution Amendments 5 and 14, Bryant v. State of Indiana (1995) (Indiana Supreme Court).

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested on May 21, 1993 and had in his possession 12,712.70 grams of marijuana. The Indiana Department of Revenue issued a Jeopardy Finding, Jeopardy Assessment Notice and Demand for the Controlled Substance Excise Tax on June 2, 1993. Taxpayer protested the assessment of Controlled Substance Excise Tax. Taxpayer pled guilty to the criminal charges and was sentenced in 1994. More facts will be provided as necessary.

Controlled Substance Excise Tax-Double Jeopardy.

DISCUSSION

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the delivery and possession of Marijuana in the State of Indiana. The Fifth and Fourteenth Amendments of the United States Constitution prohibit placing any citizen in jeopardy twice for the same action. Jeopardy attaches when a determination of guilt is made and a person is put at risk of punishment. Bryant v. State of Indiana (1995) (Indiana Supreme Court). In the instant case, Taxpayer was put at risk of punishment or in jeopardy by the Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand prior to the jeopardy in the criminal action. Therefore, Taxpayer is liable for the tax as assessed.

FINDING

Taxpayer's protest is denied.